

**DISTRICT OF COLUMBIA
OFFICE OF ADMINISTRATIVE HEARINGS**

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DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Petitioner,

v.

Case No.: OP-I-09-T100155

RAMIN KATIRAI, MAHMOUD KATIRAI,
AND SHAHLA PANBECHI

Respondents

FINAL ORDER

I. Introduction

This case arises under the Civil Infractions Act of 1985, as amended (D.C. Official Code §§ 2-1801.01 *et seq.*), and Title 12A, Chapter 1 of the District of Columbia Municipal Regulations (“DCMR”). On October 29, 2009, the Government served a Notice of Infraction (“NOI”) on Respondents Ramin Katirai, Mahmoud Katirai and Shahla Panbechi, charging them with three violations of 12A DCMR 105.1 by:

- Engaging in exterior alteration work beyond the scope of a building permit;
- Failing to obtain a building permit to sandblast off paint and loose mortar on a historic brick exterior by sandblasting; and
- Failing to obtain a building permit to conduct masonry painting on a home located in a historic district

The Government alleged that the violations occurred on September 25, 2009, at 1016 T Street, N.W. (the “Property”). The Government seeks fines totaling \$6,000.

On November 12, 2009, Respondent timely answered the NOI with a plea of Admit with Explanation. Respondent also submitted a letter explaining that a permit for the painting of the exterior brick and windows was obtained from the historic society prior to the start of construction; however, Respondent’s contractor did not realize additional permits were required.

On November 19, 2009, I issued an Order permitting the Government to reply within 14 days to Respondent’s Admit with Explanation plea. The Government responded opposing any reduction in the proposed fine because sandblasting the exterior brick caused irreparable damage.

Based upon the entire record in this case, I make the following findings of fact and conclusions of law.

II. Findings of Fact

Respondent are the owners of the Property, which is located in a Historic Preservation District. On September 25, 2009, Respondents engaged in the following activities that were prohibited without first applying for the necessary building permits:

- 1) exterior alteration work beyond the scope of Permit #B0904453;
- 2) sandblasting off paint and loose mortar on a historic brick exterior; and
- 3) masonry painting on a home located in a historic district

Respondents accept responsibility for their actions. Their contractors were not aware that additional permits were required to complete this building project. The Government

acknowledges that Respondents have taken steps to obtain approval to mitigate and repair the damage done to the exterior brick caused by sandblasting.

III. Conclusions of Law

The Government has charged Respondents with violating 12A DCMR 105.1 for failing to obtain a required building permit for the Property on September 25, 2009, when they began exterior alteration work beyond the scope of Building Permit Number B0904453, began sandblasting off paint and loose mortar from the exterior of the Property without an approved permit, and began masonry painting without an approved permit. The Regulation provides:

12A DCMR 105.1 provides in part:

A permit shall be obtained from the code official before any of the construction activities or regulated actions specified in Sections 105.1.1 through 105.1.13 shall begin. Depending on the scope of work, as specified in Section 105.1 through 105.1.13, a construction project shall require one or more of the following types of permit:

1. Building permit.

12A DCMR 105.1.4 provides in part:

A building permit is required for the following:

...2. Altering or repairing an existing building or structure;

Respondents' contention that their contractor was unaware of the law is unavailing because Respondents' professed ignorance of the law does not excuse the violation. It is well established in jurisprudence that ignorance of the law is not a defense to a charge.¹

¹ The general rule that ignorance of the law is not a defense is one that is deeply rooted in American Jurisprudence. *Cheek v. United States*, 498 U.S. 192, 199 (1991), citing *Shevlin-Carpenter Co. v. Minnesota*, 218 U.S. 57, 68 (1910). See also *DOT v. Nichols*, 2005 D.C. Off. Adj. Hear. LEXIS 66 at *2 (Final Order November 22, 2005) (ignorance of the law is no defense to violation of regulation); *Robinson v. District of Columbia*, 580 A.2d 1255, 1258 (D.C. 1990) (professed ignorance of the law is not a valid defense to its violation).

Based on their Admit with Explanation plea, Respondents are liable for violating the Regulation as charged in the NOI. A violation of 12A DCMR 105.1 is a Class 1 civil infraction punishable by a \$2,000 fine for a first offense. 16 DCMR §§ 3306.1.1(b) and 3201.1(a)(1). The Government opposes a reduction in the proposed fine given Respondents' irreparable damage done to the brick.

The Administrative Law Judges in the Office of Administrative Hearings are authorized to suspend or reduce a fine in accordance with D.C. Official Code §§ 2-1801.03(b)(3) and (6). This administrative court has determined that suspending or reducing a proposed fine is appropriate when a party demonstrates mitigating factors such as acceptance of responsibility, corrective action taken, efforts undertaken to prevent future violations, and good faith efforts to comply. Respondents accept responsibility for their contractor's actions. Respondents have taken steps to obtain approval to mitigate and repair the damage done. In light of the foregoing, I find mitigating circumstances exist to reduce the proposed fines from \$2,000 each to \$750 each. D.C. Official Code §§ 2-1801.03(b)(3) and (6).

IV. Order

Based upon the above findings of fact and conclusions of law, and the entire record in this matter, it is this _____ day of _____ 2009:

ORDERED, that Respondents are jointly and severally **LIABLE** for violating in three instances 12A DCMR 105.1 as charged in the Notice of Infraction; and it is further

ORDERED, that Respondents shall pay a reduced fine in the amount of **TWO THOUSAND TWO HUNDRED FIFTY DOLLARS (\$2,250)** in accordance with the

instructions below within 20 calendar days of the mailing date of this Order (15 days plus 5 days for service by mail pursuant to D.C. Official Code §§ 2-1802.04 and 2-1802.05); and it is further

ORDERED, that if Respondents fail to pay the above amount within 20 calendar days of the date of mailing of this Order, interest shall accrue on the unpaid amount at the rate of 1 ½ % per month or portion thereof, starting 20 calendar days after the mailing date of this Order, pursuant to D.C. Official Code § 2-1802.03(i)(1); and it is further

ORDERED, that failure to comply with the attached payment instructions and to remit a payment within the time specified will authorize the imposition of additional sanctions, including the suspension of Respondents' licenses or permits pursuant to D.C. Official Code § 2-1802.03(f), the placement of a lien on real and personal property owned by Respondents pursuant to D.C. Official Code § 2-1802.03(i), and the sealing of Respondents' business premises or work sites, pursuant to D.C. Official Code § 2-1801.03(b)(7); and it is further

ORDERED, that the appeal rights of any person aggrieved by this Order are stated below.

Claudia Barber
Administrative Law Judge

